

AMENDED IN ASSEMBLY JUNE 16, 2004

AMENDED IN SENATE MAY 11, 2004

AMENDED IN SENATE APRIL 12, 2004

SENATE BILL

No. 1678

Introduced by Senator Dunn

February 20, 2004

An act to add Section 340.35 to the Code of Civil Procedure, relating to statutes of limitation.

LEGISLATIVE COUNSEL'S DIGEST

SB 1678, as amended, Dunn. Statutes of limitation: damages: sexual abuse of a minor.

Existing law sets forth the statutes of limitation for various civil actions, as specified.

This bill would revive a cause of action, provided an action is brought before January 1, 2006, for the sexual abuse of a minor if any complaint, information, or indictment was filed in a criminal case based upon that abuse but the criminal case was dismissed or overturned pursuant to a specified decision of the United States Supreme Court holding that the revival of the criminal action after the criminal statute of limitations has expired constitutes an unconstitutional ex post facto law, as specified.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 340.35 is added to the Code of Civil
2 Procedure, to read:

1 340.35. (a) This section shall apply if both of the following
2 conditions are met:

3 (1) A complaint, information, or indictment was filed in a
4 criminal case initiated pursuant to subdivision (f), (g), or (h) of
5 Section 803 of the Penal Code.

6 (2) The case was dismissed or overturned pursuant to the
7 United States Supreme Court's decision in *Stogner v. California*
8 (2003) 156 L.Ed.2d 544.

9 (b) Unless a longer period is prescribed for a specific action,
10 any action for damages against ~~a person~~ *an individual* for
11 committing an act of childhood sexual abuse shall be commenced
12 before January 1, 2006.

13 (c) This section shall apply to any action commenced before,
14 on, or after the effective date of this section, including any action
15 otherwise barred by a limitation of time in effect prior to the
16 effective date of this section, thereby reviving those causes of
17 action that had lapsed or expired under the law in effect prior to the
18 effective date of this section.

19 (d) This section shall not apply to any of the following:

20 (1) Any claim against a person or entity ~~who owed a duty of~~
21 ~~care to the plaintiff, if a wrongful or negligent act by that person~~
22 ~~or entity was a legal cause of the childhood sexual abuse that~~
23 ~~resulted in the injury to the plaintiff. other than the individual~~
24 ~~against whom a complaint, information, or indictment was filed as~~
25 ~~described in paragraph (1) of subdivision (a).~~

26 (2) Any claim that has been litigated to finality on the merits in
27 any court of competent jurisdiction prior to the effective date of
28 this section. For purposes of this section, termination of a prior
29 action on the basis of the statute of limitations does not constitute
30 a claim that has been "litigated to finality on the merits."

31 (3) Any written, compromised settlement agreement that has
32 been entered into between a plaintiff and a defendant, if the
33 plaintiff was represented by an attorney who was admitted to
34 practice law in this state at the time of the settlement, and the
35 plaintiff signed the agreement.

36 (e) Any restitution paid by the defendant to the victim shall be
37 credited against any judgment, award, or settlement obtained
38 pursuant to this section. Any judgment, award, or settlement

1 obtained pursuant to an action under this section shall be subject
2 to Section 13966.01 of the Government Code.

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